

**Harpswell Planning Board Meeting
Minutes of August 21, 2002**

Approved 9-18-02

Attendance: James Henderson - Chairman, John Papacosma - Vice-Chairman, Howard Nannen, Don Rogers, Dorothy D. Carrier, Noel Musson - Planner, Karen O'Connell - Recording Secretary.

The meeting had been advertised in the Times Record and was videotaped, broadcast live on Harpswell TV and recorded. Chairman Henderson called the meeting to order at 6:30 p.m., introduced above members and staff, and led the pledge of allegiance.

Approval of Minutes -

Motion - The minutes of July 17, 2002 were approved with several corrections

(Motion by Nannen and seconded by Rogers - Carried 5-0)

Henderson indicated the Minutes of the August 19 Site Visit were a joint effort by himself, Amy Ferrell, and Noel Musson. **Motion - The minutes of the August 19, 2002 Board Site Visit were approved with one correction. (Motion by Rogers and seconded by Carrier - Carried 5-0)**

Order of Agenda - Henderson asked the Board to consider re-ordering the Agenda due to time anticipated on items to be heard. Nannen suggested that items requiring action should take priority over items of information. **Motion - The Ruppert proposal should be taken up by the Board prior to the Saxton proposal as it requires action by the Board (Motion by Henderson and seconded by Carrier - Carried 5-0)**

02-08-1 David and Diane Moody, Amendment of Previous Wharf Application Commercial Fishing I, Tax Map 8-10W, Wood Landing Rd., off Lookout Point Rd.

Henderson indicated that since this application is a request for a change in previously approved application, the item should be formally re-opened by the Board. **Motion - The Board will reconsider its action whereby the Board approved a previous Wharf application by David and Diane Moody for Commercial Fishing. (Motion by Nannen and seconded by Carrier -Carried 5-0)**

Henderson explained the Board was aware of the layout at the Moody Wharf site as a result of a recent Board site visit. (minutes of 8-19-02 Site Visit on file)

Applicant Presentation - Mr. David Moody explained that his original application had noted a 14 foot tall fish house, but this had been an oversight on his part and he needed more height than 14 feet to allow for a second story workshop over the shed. He explained that he had not originally given the height of the structure much thought. After reviewing his plans he has decided he can get by with a 15 foot high fish house and submitted a single copy of a hand drawing for the official file. Henderson indicated that the Board was familiar with the physical dimensions of the proposed shed after the site visit. Henderson reported a tape was raised by Selectman Swallow to demonstrate the proposed 15 foot height.

Public Comment - Noel Musson submitted a letter that was faxed today from abutters Pam and Don Giller. Henderson read the letter which asks whether the proposed decking on two sides of the shed increases the size of the shed from 12 by 12 foot to 16 by 16 in size and if this is in keeping with the ordinances and coastal protection. Musson indicated he spoke to the Codes Office and suggested review of the shed design by Planning Board in reference to Section 15 of the Site Plan review. Musson indicated that the shed was to be built over an already impervious surface. Henderson indicated that the one foot height difference was not likely to impact any of the standards. The Board reviewed all of the standards of Section 15 and concluded the one foot change in height does not impact any of the standards. **Motion - The Board finds that with the one foot change in height the applicant still meets the standards of Section 15 of the Site Plan Review Ordinances. (Motion by Rogers and seconded by Carrier)**

Board Discussion - Papacosma raised the issue of Section 15.3.4.2 of Shoreland Ordinances which indicates Commercial Piers and Wharfs shall be limited to 12 feet in width or if larger, the project must be justified by applicant and approved by Planning Board. Moody explained the structure was built over an existing wharf. Rogers noted there would be additional space on the wharf on both sides of the proposed structure as the wharf was 28 feet wide. The applicant clarified that space on the wharf is limited to two sides of the structure. Nannen asked if the 4 foot deck/landings were part of the original proposal and Moody explained he had this in mind but, had not originally submitted drawings. Nannen asked about development of standards about the limits on size of landings. Rogers discussed the need to look at what is most practical. Henderson indicated 15.3.4.2 indicates the facility should be no larger than necessary, leaving it as a matter of Board discretion as to need.

Motion - The whole structure, including the walkway around the second floor, meets the requirements of the Shoreland Ordinance 15.3.4, which is that the facility should be no larger in dimension than necessary to carry on

the activity and be consistent with existing conditions use and character of the area (Motion by Rogers and seconded by Carrier - Carried 5-0) Nannen clarified that the landing is on two sides of the building only.

Board Discussion - Noel Musson recommended, as mentioned in his memo, that Moody could cover himself with a notification to the Army Core of Engineers as recommended by the Town Attorney. Rogers indicated the Army Core of Engineers is only concerned with what goes on over the clam flats. The Board concluded they would offer this suggestion to the applicant noting the advice of the Town Attorney and the applicant could decide.

Board Vote - The Board voted on the previous motion to approve the application as it meets the standards of Section 15. **(Vote Carried 5-0)** (See previous page for Motion)

02-08-3 R. Scott Rupert, Reconstruction of Non-Conforming Structure, Shoreline Residential, Tax Map 18-154, Harpswell Neck Rd.

Applicant Presentation - Scott Rupert indicated he is applying to do a reconstruction of a residence on a non-conforming lot. Rupert indicated the lot is non-conforming in regard to sideline setbacks due to being a narrow lot. He indicated he would like to remove a shed/garage that sits close to the water and receive a volume credit to increase the main house. In addition he wishes to increase the volume of the main house by 30%. He believes the removal of the shed is in keeping with Shoreland Zoning Ordinances 10.3.1. He indicated he would be increasing the volume of the main house but would not increase the footprint. The septic design necessary for a seasonal conversion would require movement of the house footprint forward on the lot toward the street. Rupert explained he is attempting to get answers to what is allowable for volume increase in terms of incorporating the shed volume, plus a 30% expansion on the main house. He indicated in this way, he can make a more specific plan with an architect working on the current footprint. He is not certain that he will be able to fit all the volume into the footprint but would like to ask for it all. Rupert noted there are also vertical limitations as the house is approximately 27 feet tall now.

Board Discussion - Henderson indicated the Board would be interested in issues of footprint and volume expansion and Musson added that foundation criteria of 10.3.1.2 should be reviewed. Board members discussed the following issues: volume credit; 50% reconstruction triggering relocation and to which structures that would apply; movement of the main house foundation and possible need to make a determination on 10.3.1.2 regarding construction of a foundation; and septic system issues and helpfulness of a drawing. Musson indicated it was his opinion there were two separate structures involved and the Board needs to determine if moving the structure to the greatest practical extent could allow the shed to be incorporated into the house. He indicated there are many limiting issues because this is a small lot. Rupert indicated moving the house forward on the lot reduces driveway coverage. Henderson indicated he does not believe that the issue of seasonal conversion comes before the board but is a matter of meeting technical requirements. Henderson advised the applicant that the Department of Human Services and the Codes Office would handle technical issues of septic related to seasonal conversion.

The board discussed that they must generally focus on height, volume, and footprint. The Board indicated a sketch of the general design would be helpful for the sake of public information and informing abutters, but the design is not an important Board issue. The Board discussed the authority to approve up to 30% expansion and standards for the expansion being satisfactory and discussed 10.3.2 which provides standards for relocation and impacts on water and adjacent properties. It was noted by Papacosma that the shed/garage is approximately 20 by 12 or 240 square feet. The Board indicated that the Codes Office would work to calculate the volume expansion. Nannen expressed concern over the increasing size of buildings on small lots and Carrier indicated it is less an issue because the proposal is to stay on the current footprint.

Public Comment - Bill Chase, a neighbor, indicated he supports the proposal for removal of the garage and rebuilding the house which is deteriorating. George Parker also an abutter indicated he approves of the plan as he has been watching the current house fall apart. Henderson explained in response to a question by neighbor, that the proposed movement of the house was to accommodate a seasonal septic system.

Motion - The Board approves the reconstruction of a structure on a footprint of the same size or smaller dimensions of the current footprint and that footprint may be moved further toward the road to accommodate a septic system that will support year round use (Motion by Carrier and seconded by Rogers- Carried 5-0)

Motion - The Board finds that the floor area and volume of the garage structure plus 30% may be credited to the main structure. (Motion by Henderson, seconded by Nannen - Carried 5-0)) Nannen clarified that Rupert's proposal was to take the garage and the 30% expansion potential and simply add it to the square footage of the house. Rupert indicated he is doing a volume expansion on the current footprint.

Motion - The Board considers that Section 10.3.1.2 (regarding foundation reconstruction) is not applicable to this application as the structure is being moved and totally rebuilt (Motion by Henderson and seconded by Nannen - Carried 5-0)

Ruppert clarified that the basement would not be expanded. Musson indicated the basement was exempted from the calculations of volume. Ruppert was not certain whether the volume of the basement had been included in volume calculations. The Board indicated the Codes Office would calculate volume and concluded the footprint is the exterior walls of the structure.

Board Discussion - Musson indicated the Board might want to consider a condition related to septic approvals but the Board discussed this may not be necessary since the Codes Office will require this. Musson also suggested a review of Section 13.4.7 of the Basic Land Use Ordinance.

The Board reviewed the requirements of 13.4.7 finding all areas acceptable and a motion was proposed. **Motion - The Board finds that the Application meets the requirements of Section 13.4.7 of the Basic Land Use Ordinance.**

(Motion by Carrier and seconded by Rogers - Carried 5-0) Henderson asked the Board members if they wished to take any other action or conditions and the Board did not.

Motion - To accept the application as approved by previous motions (Motion by Rogers and seconded by Carrier - Carried 5-0)

The Board recessed briefly at this point.

02-08-2 Chris, Bill, and Jeremy Saxton, represented by Albert Frick (Soil Scientist/ Site Evaluator), Pre-application conference for a proposed Subdivision, Inland (Tree Growth), Tax Map 12-109, off Sunset Cove Rd., (R/W Access off Harpswell Neck Road)

Applicant Presentation - Chris Saxton indicated he was here with his brothers Bill and Jeremy and his representatives Albert Frick, Soil Scientist /Site Evaluator and Mark Vannoy, Engineer. Saxton explained this was a pre-application conference in regard to a proposed subdivision. The subdivision is proposed with an entry by a 50 foot right of way just north of the Post Office off Route 123. Saxton indicated they had questions for the Board related to the land which is 15.78 acres. It was clarified the Saxtons are under contract to purchase the land.

Mark Vannoy, Engineer indicated 7 lots are planned. Vannoy indicated that they are in the process of confirming the status of an intermittent watercourse that crosses the property and that Al Frick would address this. He noted the plan for electrical is for it to be placed underground. Vannoy indicated Jim Hillier, Hydrologist is studying the water and Saxton stated he is confident they will find adequate water supply at the site. He indicated the plan is for on site septic disposal. The topography includes the watercourse and each side of that is rock outcropping and gentle sloping toward it.

Vannoy indicated that in reviewing the subdivision ordinances, there are a number of areas where the Planning Board may have some leeway and the areas they would like to discuss are:

1. wetlands septic setback, 2. waiver of certain details of contour maps, 3. storm water runoff analysis

Albert Frick indicated that the 15.78 acre subdivision proposal would include 7 lots ranging in size from 80,000 to 99,000 square feet and a cul-de-sac which would be 1750 linear feet. He indicated there would be crossing of a couple of wetland areas to access the property requiring a Department of Environmental Protection (D.E.P.) approval. Frick indicated they would work to minimize the wetland impact. Not all the areas are suitable for septic so they gravitated to deeper soil areas for subsurface disposal. He noted there is a minor watercourse which does not show up on the U.S. Geological Survey Map but it does have a minimal channel so it constitutes a DEP stream for permits and constitutes a minor water course for Health Engineering setbacks standards. This stream runs intermittently. More than 7 potential septic sites have been located in deeper appropriate soils located uphill from the stream area.

Wetlands Clarification - The applicants asked for a clarification of Section 9.5.3 of the Subdivision Ordinance which stipulates wetlands greater than 20,000 contiguous square feet may not be included in calculation of lot areas. Frick indicated the question is how to interpret types of wetlands and measure setbacks from the wetland on the proposed subdivision. Frick noted DEP policy regarding an extended wetland (when there are thin areas of wetlands less than 100 feet wide for more than 100 feet) does not interpret smaller areas as contiguous wetland area in calculation. Frick indicated he had conversations with Doug Webster in the recent past regarding this interpretation. Henderson asked Frick if this was a written policy, it would be helpful if he could get a copy of this policy for the Board's review. Frick indicated the calculations of such narrow fingers as part of contiguous wetlands impact measurement. Papacosma asked if the Wetland in question was considered a high value wetland and Frick answered no and indicated it does not show up on official maps.

Frick asked the Board for clarification as to what type of wetland the Town requires to have the 75 foot setback, referring to Section 9.10 in the Subdivision Ordinance. He was asking for clarification as to how the Town would classify

the watercourse. He indicated he needs a methodology to quantify where wetlands begin and stop. He noted he understands hydrology, soil, and vegetation are criteria. Henderson indicated the questions would be reviewed.

Public Comment - Edith Marden an abutter indicated she is concerned about the impact of the development on the area water supply. Henderson explained that the applicants must supply information that there is a sufficient water supply. Marden indicated she has a further concern that a surveyor ran lines incorrectly, coming over 25 feet onto the Marden land. She indicated she has been told by Chris Saxton that he will correct this. Henderson explained such property issues are not resolved by the Board.

Applicant Presentation - Contour Map Issue - Mark Vannoy requested consideration for a waiver from 2 foot contour intervals on the required contour maps. He referenced 8.3.2.5 and his request is to show a 2 foot contour map around the road and stream and then utilize a 10 foot contour elsewhere on the lot where the areas are more level. According to Frick the slopes in outer areas are B slopes of 6 to 8 percent. Vannoy indicated the stream channel is about 3 to 4 feet deep and escarpments are about 10 feet. The Board agreed it would be good to go to the site to determine if there is a need for more contour detail and set a Site Visit for Wednesday, September 4 at 4:00 P.M. convening at the Town Office. The applicants indicated they would mark their impressions of the wetland boundaries for the site visit.

Storm water Management - Vannoy indicated they would like to manage storm water in a more natural way rather than concentrate it in pipes or detention basins. They will do a peak flow run off analysis for a 25 year storm. Papacosma indicated the Board would be looking for how the water would be buffered and filtered and Henderson indicated the Board is interested in impact on Marine Resources. Papacosma noted that Section 9.12.5 requires no harm resulting from development and control of runoff. The Board asked the distance from the ocean which was calculated by Frick and Marden to be approximately 1000 to 1200 feet.

Board Discussion - Papacosma indicated that a hydrologist's assessment would be required if there are well water quantity problems in the area. Saxton indicated that Hillier and Fred Perry a local well Driller will be available at the September meeting.

Nannen suggested the Saxtons consider utilizing new clustered housing provisions available in the Town Ordinances and Saxton indicated they were informed of these options.

Henderson reminded the Applicants that the road must be constructed with consideration for access by the Fire department. Saxton indicated they had made application to DOT for a curb cut. Nannen indicated the new road ordinances would apply as well.

Special Board Business -

Site Visit Process - Musson asked the Board to comment on their satisfaction with the Site Visit Process and the Board indicated they were satisfied and felt the Caravan (taking fewer cars) worked well at small sites. Board members discussed that in some cases site visits would not be necessary and they would agree on this in advance of any public notice time frame.

Contour Lines - Musson asked the Board members impression as to how much detail is needed on contour lines. Board members discussed that 2 foot contour lines may be a bit too much detail in some cases but felt 10 foot contours would not be sufficient. The Board indicated that 5 to 10 foot contour lines are helpful with more detailed contours on steep slopes. Elevation reference points on critical slopes toward the water should be a bare minimum and can be done using 20 foot USGS contours. It was agreed applicants would be advised to provide critical slope lines and if they did not, then the Board could decide whether to request more detail. Henderson indicated an ordinance change could be considered in terms of required contour lines. Papacosma indicated a request for contours on critical areas and particularly steep slopes as this is what creates erosion.

Meeting Materials and Presentation - Musson asked about presentation of materials and the Board agreed that folders are fine and binders are not necessary. Musson indicated Amy Ferrell had asked whether name tags would be helpful to identify speakers and it was decided not necessary due to difficulty reading them at a distance.

Planning Meetings -

The upcoming Planning Meeting to be held Wednesday September 11, 6:00 P.M. in Saco was discussed and Board members were reminded to sign up. Car pooling was suggested.

Musson announced a September 19 Community Housing Workshop to take place at 5:30 P.M. Old Brunswick High School.

Henderson thanked Musson and Ferrell for their good work in support of the Board.

Adjournment - Motion - To Adjourn the Board Meeting (Motion by Rogers and Seconded by Henderson - Carried 5-0) The meeting was adjourned at 9:44 P.M.

Respectfully Submitted,

Karen O'Connell, Recording Secretary.